

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 130 Section 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser</b>
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**TITLE 86: REVENUE**

**PART 130**

**RETAILERS' OCCUPATION TAX**

**Section 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser**

- a) "Gross receipts", on the basis of which Retailers' Occupation Tax liability must be computed, do not include charges which are added to prices on account of the seller's Illinois Retailers' Occupation Tax liability, or on account of the seller's liability for local Retailers' Occupation Taxes administered by the Department, or on account of the seller's duty to collect the tax imposed by the Use Tax Act.
- b) If a retailer does not keep a detailed record for the return period of the Use Tax which he collects so as clearly to segregate this added charge from other receipts, it will at least be assumed that the Use Tax collected equals the Retailers' Occupation Tax payable on such transactions if the retailer collects the Use Tax in accordance with the bracket schedule prescribed by the Department in Subpart D of the Use Tax Regulations, (86 Ill. Adm. Code Part 150).
- c) The retailer may eliminate the amount of Use Tax which he collects from the total receipts which he receives from taxable sales in arriving at his taxable receipts from such sales by subtracting the amount so collected from the purchaser as Use Tax, as shown by such retailer's books and records. He may also accomplish this result by subtracting, from the total receipts which he receives from taxable sales, the figure obtained by dividing such receipts by 1.0625 and multiplying the result by .0625.
- d) To the extent to which such sales are also taxable for Home Rule Municipal Retailers' Occupation Tax purposes, Non-Home Rule Municipal Retailers' Occupation Tax purposes, or Home Rule County Retailers' Occupation Tax purposes or any other locally-imposed Retailers' Occupation Tax at a 1/4 of 1% rate (with an amount equivalent to the Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax being passed on to purchasers by the seller as a separate item from the selling price) and the formula is used for determining how much may be subtracted from the total receipts which the seller receives from taxable sales in arriving at the taxable gross receipts from such sales, the amount to be subtracted on this account will be determined by dividing such total receipts by 1.065 and multiplying the result by .065 (6.25% for the Use Tax and 1/4% for the local Retailers' Occupation Tax.)
- e) To the extent to which such sales are also taxable for Home Rule Municipal Retailers' Occupation Tax purposes, Non-Home Rule Municipal Retailers' Occupation Tax purposes, or Home Rule County Retailers' Occupation Tax purposes or any other locally-imposed Retailers' Occupation Tax at a 3/4 of 1% rate (with an amount equivalent

to the Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax being passed on to purchasers by the seller as a separate item from the selling price) and the formula is used for determining how much may be subtracted from the total receipts which the seller receives from taxable sales in arriving at the taxable gross receipts from such sales, the amount to be subtracted on this account will be determined by dividing such total receipts by 1.07 and multiplying the result by .07 (6.25% for the Use Tax and 3/4 of 1% for the local Retailers' Occupation Tax).

- f) To the extent to which such sales are also taxable for Home Rule Municipal Retailers' Occupation Tax purposes, Non-Home Rule Municipal Retailers' Occupation Tax purposes or Home Rule County Retailers' Occupation Tax purposes or any other locally-imposed Retailers' Occupation Tax at a 1% rate (with an amount equivalent to the Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax being passed on to purchasers by the seller as a separate item from the selling price) and the formula is used for determining how much may be subtracted from the total receipts which the seller receives from such sales, the amount to be subtracted on this account will be determined by dividing such total receipts by 1.0725 and multiplying the result by .0725 (6.25% for the Use Tax and 1% for the local Retailers' Occupation Tax).
- g) If the seller, in collecting such tax or its equivalent, does not state it to the purchaser as a separate item from the selling price in accordance with procedures described in Section 150.1305 of the Use Tax Regulations (86 Ill. Adm. Code Part 150.1305), the failure to state the tax separately will create a rebuttable presumption that the tax was not collected. The seller will not be entitled to any deduction from total receipts because of having collected tax or its equivalent from the purchaser unless the seller can produce documentary evidence which shows that the tax or its equivalent was in fact collected.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)